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REMARKS

Claims 459, 464-465, 468-469 and 471-473 remain in this application. Claims 460 and 466 have been canceled, and claims 1-458, 461-463, 467 and 470 were previously canceled.

Claim 459 and dependent claims 464-465, 468-469 and 471-473, dependent thereon, have been amended to require that the processor be operative with a program to indicate to the buyer that a bargain price will remain active during a predetermined time period, provided that the product or service appointed for purchase remains available. Additionally, said claims require that the processor will be operative with a program to verify the legitimacy, authenticity, and the condition and pricing of the product listed by the seller; said program comprising the steps of: (i) obtaining issuance of an authenticity certificate from an authorized appraiser, (ii) obtaining a price evaluation from said authorized appraiser, (iii) checking product certification at the time of pick-up or delivery, and (iv) checking condition of said product at the time of pickup or delivery. These features are supported by the specification and represent the restrictions of original claims 460 and 466, which have been canceled. Entry of the above noted amendments to the claims is respectfully requested.

Applicant's system, as recited by current claims 459, 464-465, 468-469 and 471-473, provides an effective, reliable and cost effective electronic bargaining system that (i) enables buyers to bargain with the system in order to negotiate an optimum bargain price and (ii) enables sellers to sell or list their products by bargaining with the system to negotiate the best-offered price. This system operates as an optimized middleman

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between the buyer and the seller, permitting purchases and sales of goods to be transacted at prices that represent the best bargain obtained by the two parties.

The system comprises a "Business Controller" (or "processor") unit adapted to process buyer requests and to initiate a bargain process structured to provide an optimum price for both the buyer and the system. The Business Controller unit is further adapted to process seller requests and to initiate a bargain process structured to provide an optimum price offered to the seller by the system, the Business Controller being connected with a database unit that searches the database to generate a search result (and process the search results according to the buyer and seller requests). The processor further comprises a program to start the bargaining process by continuously generating bargain prices for buyers and sellers until a point, as indicated supra, is reached. Further, applicant's system requires that the processor validates a received bargain offer signal from the buyer, or a sell offer signal from the seller, thereby determining whether the offer meets predetermined validation criteria.

Applicant's system, as recited by the current claims, requires that the processor be operative with a program to: transmit a notification to the buyer. The notification indicates that buyer's bargain offer is less than certain minimum predetermined offer criteria and asks said buyer to send another bargain offer, or quit the bargaining process, or to follow a bargaining recommendation provided by an online shopping assistant. The processor is also required to be operative with a program to notify the buyer or seller concerning the status of shipment in transit. The notification is provided (a) at the time of sale; and (b) periodically in response to a buyer or seller request after purchase of said product.

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Depending on the preferred embodiment, the system further comprises a database controller unit having all required databases such as payment database, billing database, buyer database, seller database, and product database; and a transceiver disposed in communication with the Business Controller unit, for transmitting Business Controller generated responses to buyers and the sellers and receiving buyer and seller requests to initiate a bargain process.

Claim Rejections – 35 USC § 103

Claim 459 was rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US Patent 5,794,207) and Miller (Miller, Michael. *The Complete Idiot's Guide to Online Auctions*. Que. 1999. pp. 1-331).

Walker discloses a method and apparatus for effectuating bilateral *buyer-driven commerce*. The Walker method allows prospective buyers of goods and services to communicate a binding purchase offer *globally* to potential sellers. Potential sellers may then conveniently search for relevant buyer purchase offers, and for sellers potentially to bind a buyer to a contract based on the buyer's purchase offer. In a preferred embodiment, the apparatus of the Walker invention includes a controller which receives binding purchase offers from prospective buyers. The controller makes purchase offers available *globally* to potential sellers. Potential sellers then have the option to accept a purchase offer and thus bind the corresponding buyer to a contract. The method and apparatus of Walker have applications on the Internet as well as conventional communications systems such as voice telephony.

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Miller is a guide to “online auctions” that are defined (by the Miller reference) as being an attempt to “coax” potential buyers into bidding “just a little bit more” for a piece of merchandise up for bid, where the bidding is executed by special auction software on an auction website (see Miller page 8). The bidding by potential buyers is against other potential buyers, and the buyer offering the highest bid ultimately obtains the merchandise.

The Examiner has indicated that it would have been obvious to one of ordinary skill in the art to have modified Walker and Miller by incorporating a method by which to transmit notification concerning whether a submitted bargain offer satisfied predetermined offer criteria and tracking status of a shipment, as disclosed by Miller, allowing the purchaser to remain informed about the status of the bargain process and delivery of purchased items.

Applicant reiterates that Walker and Miller do **not** teach bargaining or negotiating structured to provide an *optimum price* mutually agreed to by both buyer and seller.

With regards to Walker, this reference teaches a method where purchase offers are **published** globally to potential sellers, thereby providing potential sellers with a venue to view the various purchase offers for the merchandise. Presumably the seller will select the highest purchase offer. Once selected, the buyer is contractually bound to purchase the item being sold. Therefore, the Walker procedure does not provide for negotiations between a potential buyer and seller.

With regards to Miller, this reference is an overview of “online auctions” in order to attempt to “coax” potential buyers into bidding more for a piece of merchandise up for bid. The bidding is executed by special auction software on an auction website. As noted

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supra, the bidding by potential buyers is against other potential buyers, and it is not a transaction between a buyer and a seller as is the bargaining transaction required by applicant's claims.

It is submitted that in one embodiment of Walker, a potential seller is given the option to respond to a purchase offer with a binding counteroffer. The seller transmits the counteroffer to the central controller, which then forwards the counteroffer to the buyer who is given the option of accepting it. Although this embodiment does provide the seller with an opportunity to communicate a purchase offer, it clearly fails to allow negotiations between the potential buyer and seller.

By contrast, applicant's system, as recited by current claim 459 requires that buyer and seller "carry out a bargaining process" to arrive at a mutually agreed to purchase price, where the system serves as a "middleman" in the bargaining process. Thus, rather than *merely* publishing a purchase offer globally and providing the seller with an opportunity to respond with *one* counteroffer (as is taught by Walker), applicant's bargaining system requires the potential buyer and seller to **bargain** with each other. Consequently, applicant's system requires that the buyer and seller have an opportunity to consider **multiple offers** in order to negotiate a purchase price.

Applicant's system, as recited by current claim 459, requires that the processor start the bargaining process by **continuously generating bargain prices** for buyers and sellers. As noted supra, this procedure will continue until a point is reached where: (1) an acceptable price is arrived at, (2) said buyer or said seller stop bargaining; (3) said product becomes unavailable; (4) said bargain price generated by said system reaches its limit; (5) said buyer or said seller runs out of bonus chances or does not request

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additional chances; or (6) said predetermined time period allotted for bargaining has expired. Advantageously, this process of continuously generating prices increases the likelihood that both seller and buyer will be satisfied with the ultimate purchase price. Claim 459 requires that the processor validate a received bargain offer signal from the buyer, or a sell offer signal from the seller, thereby determining whether the offer meets predetermined validation criteria.

The processor of applicant's Internet Bargaining System is operative with a program to transmit a notification to the buyer. The notification indicates that buyer's bargain offer is less than certain minimum predetermined offer criteria and asks said buyer to send another bargain offer, or quit the bargaining process, or to follow a bargaining recommendation provided by an online shopping assistant. Claim 459 also requires that the processor be operative with a program to notify the buyer or seller concerning the status of shipment in transit. The notification is provided (a) at the time of sale; and (b) periodically in response to a buyer or seller request after purchase of said product.

Claim 459 has been further amended to require that the processor be operative with a program to indicate to the buyer that a bargain price will remain active during a predetermined time period, provided that the product or service appointed for purchase remains available. Additionally, said claims require that the processor will be operative with a program to verify the legitimacy, authenticity, and the condition and pricing of the product listed by the seller. The program comprises the steps of: (i) obtaining issuance of an authenticity certificate from an authorized appraiser, (ii) obtaining a price evaluation from said authorized appraiser, (iii) checking product certification at the time of pick-up

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or delivery, and (iv) checking condition of said product at the time of pickup or delivery. It is submitted that the combination of these features is not disclosed or suggested by the combined teachings of the cited references.

For the reasons discussed supra, modification of Walker in view of Miller will not produce the system recited by current claim 459. Rather, the resulting system will not enable bargaining between a buyer and a seller, as is required by 459. In addition, the resulting system will not require (i) that the bargain price will remain active during a predetermined time period, and (ii) that the processor will be operative with a program to verify the legitimacy, the authenticity, and the condition and pricing of the product listed by the seller.

Accordingly, reconsideration of the rejection of claim 459 under 35 U.S.C. 103(a) as being unpatentable over the combination of Walker and Miller is respectfully requested.

With regards to claims 464-465, 468-469 and 471-473, these claims represent preferred embodiments of the device recited by claim 459 and are dependent thereon. Inasmuch as claims 464-465, 468-469 and 471-473 contain all the limitations of independent base claim 459, it is submitted that these dependent claims are also patentable over Walker, Miller and the Official Notice. Specifically, the systems recited by dependent claims 464-465, 468-469 and 471-473 enable bargaining between a buyer and a seller. They additionally require (i) that the bargain price remain active during a predetermined time period, and (ii) that the processor will be operative with a program to verify the legitimacy, the authenticity and the condition and pricing of the product listed by the

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seller. Modification of Walker in view of Miller and the Official Notice will not produce a system that comprises these features. On the other hand, the system called for by present claims 459, 464-465, 468-469 and 471-473 provides an effective, reliable and cost effective electronic bargaining system that (i) enables buyers to bargain with the system in order to negotiate an optimum bargain price and (ii) enables sellers to sell or list their products by bargaining with the system to negotiate the best-offered price. Operating as an optimized middleman between the buyer and the seller, the system called for by applicant's claims advantageously enables purchases and sales of goods to be transacted at prices that represent the best bargain obtained by the two parties.

Accordingly reconsideration of the rejection of current claims 459, 464-465, 468-469 and 471-473 under 35 U.S.C. 103(a) is respectfully requested. [As noted supra, claims 460 and 466 were canceled, thus the rejection with regards to these claims is now moot.]

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Conclusion

In view of the amendments to the claims and the remarks set forth above, it is respectfully submitted that the present application is in allowable condition. Reconsideration of the Final Rejection, entry of this amendment and allowance of present claims 459, 464-465, 468-469 and 471-473 are earnestly solicited.

Respectfully submitted,
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